

Assembly Bill No. 2080

Passed the Assembly August 22, 2000

Chief Clerk of the Assembly

Passed the Senate August 18, 2000

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2000, at _____ o'clock ____M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Section 14110.8 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 2080, Granlund. Medi-Cal: long-term care services.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services.

Existing law provides that when a patient in a nursing facility who is on non-Medi-Cal status converts to Medi-Cal coverage, any security deposit paid to the facility by the patient or on his or her behalf, as a condition of admission to the facility, shall be returned and the obligations and responsibilities of the patient or responsible party shall be null and void.

This bill would, instead, designate a patient as a resident, and would provide that these obligations shall, during the time period the resident is covered by the Medi-Cal program, be limited to the obligations and responsibilities provided for under the Medi-Cal program.

Existing law also permits a facility to require, as a condition of admission, that where the patient has an agent, the agent sign or cosign the admissions agreement and agree to distribute to the facility, promptly when due, the share of cost and any other charges not paid for by the Medi-Cal program which the patient and his or her agent has agreed to pay.

This bill would require a resident and his or her agent to pay a facility the share of cost for which the resident is responsible under the Medi-Cal program.

The bill would authorize the resident or agent to apply for a hearing, if the resident or agent disputes the amount of share of cost owed to a facility.



Existing law provides that the amount of the agent's financial obligation under these provisions is limited to the amount of the funds received but not distributed to the facility.

This bill would provide an exception to this provision.

Existing law provides that any agent who willfully violates the above-described provisions is guilty of a misdemeanor.

Because the bill would change the definition of a crime, the bill would constitute a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Residents in California's long-term care facilities are particularly vulnerable to the theft of personal funds designated as resident "share of cost" under the Medi-Cal program.

(b) The theft or illegal diversion of a resident's share of cost funds has an adverse impact on the resources available to ensure quality care for all facility residents.

(c) This act is necessary to protect long-term care resident rights, provide appropriate resources for resident care, and ensure that resident funds designated to pay for long-term care are used for that purpose.

(d) This act is intended to affect individuals who intentionally steal or divert resident share of cost, and not to change the obligations or responsibilities of Medi-Cal residents or deter legitimate disputes over the amount of a resident's share of cost.

SEC. 2. Section 14110.8 of the Welfare and Institutions Code is amended to read:

14110.8. (a) For the purposes of this section:



(1) “Facility” means any long-term health care facility as defined in subdivisions (c), (d), (e), (g), and (h) of Section 1250 of the Health and Safety Code.

(2) “Resident” means a person who is a facility resident or patient and a Medi-Cal beneficiary and whose facility care is being paid for in whole or in part by Medi-Cal.

(3) “Agent” means a person who manages, uses, or controls those funds or assets of the resident that legally are required to be used to pay the resident’s share of cost and other charges not paid for by the Medi-Cal program.

(4) “Responsible party” means a person other than the resident or potential resident, who, by virtue of signing or cosigning an admissions agreement of a facility, either together with, or on behalf of, a potential resident, becomes personally responsible or liable for payment of any portion of the charges incurred by the resident while in the facility. A person who signs or cosigns a facility’s admissions agreement by virtue of being an agent under a power of attorney for health care or an attorney-in-fact under a durable power of attorney executed by the potential resident, a conservator of the person or estate of the potential resident, or a representative payee, is not a responsible party under this section, and does not thereby assume personal responsibility or liability for payment of any charges incurred by the resident, except to the extent that the person, or the resident’s conservator or representative payee is an agent as defined in paragraph (3).

(b) No facility may require or solicit, as a condition of admission into the facility, that a Medi-Cal beneficiary have a responsible party sign or cosign the admissions agreement. No facility may accept or receive, as a condition of admission into the facility, the signature or cosignature of a responsible party for a Medi-Cal beneficiary.

(c) A facility may require, as a condition of admission, where a resident has an agent, that the resident’s agent sign or cosign the admissions agreement and agree to distribute to the facility promptly when due, the share of



cost and any other charges not paid for by the Medi-Cal program which the resident or his or her agent has agreed to pay. The financial obligation of the agent shall be limited to the amount of the resident's funds received but not distributed to the facility. A new agent who did not sign or cosign the admissions agreement shall be held responsible to distribute funds in accordance with this section.

(d) When a resident on non-Medi-Cal status converts to Medi-Cal coverage, any security deposit paid to the facility by the resident or on the resident's behalf as a condition of admission to the facility shall be returned and the obligations and responsibilities of the resident or responsible party during the time period when the resident is covered by Medi-Cal shall be limited to the obligations and responsibilities provided for under the Medi-Cal program. In the event that the resident becomes ineligible for Medi-Cal coverage at any time subsequent to converting to Medi-Cal coverage, the resident and responsible party shall be bound by the terms of the original admission agreement, or any admission agreement in effect at the time the Medi-Cal coverage commenced.

(e) When a resident on non-Medi-Cal status converts to Medi-Cal coverage, the facility shall make a reasonable attempt to assist the resident in contacting the county to obtain an estimate of the resident's share of cost.

(f) A resident and his or her agent shall pay to the facility the share of cost, for which he or she is responsible under the Medi-Cal program, unless otherwise exempted by law.

(g) If a resident or his or her agent disputes the amount of share of cost owed to a facility, the resident or agent may apply for a state hearing pursuant to Section 10950 for a determination of the amount of share of cost owed to the facility.

(h) Any agent who willfully violates the requirements of this section is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed two thousand five hundred dollars (\$2,500) or by

imprisonment in the county jail not to exceed 180 days, or both.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2000

Governor

